

#485
BILL NO. G-91-09-09

GENERAL ORDINANCE NO. G-

Withdrawn

AN ORDINANCE amending the Thoroughfare
Plan of the City Comprehensive ("Master")
Plan by vacating public right-of-way thereof.

WHEREAS, a petition to vacate public right-of-way
within the City of Fort Wayne (as more specifically
described below) was duly filed with the City Planning
Commission; and

WHEREAS, said Commission duly held a public hearing
thereon; and

WHEREAS, said Commission has duly forwarded its
recommendation to this body approving said petition, all in
accordance with I.C. 36-7-4-512(2) and this body having held
a public hearing on said vacation as provided in I.C. 36-7-
4-12; and

WHEREAS, this body concurs in the recommendation of the
City Planning Commission.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the petition filed herein to vacate
public right-of-way within the City of Fort Wayne, more
specifically described as follows, to-wit:

Part of Jefferds Avenue and Fairview Avenue in
Lincoln Park Highway Park Addition as recorded in
Plat Book 7B Page 121 as recorded in the plat
thereof in the Office of the Recorder of Allen
County, Indiana, more particularly described as
follows:

Beginning at the Northeast corner of Lot Numbered 76 in
Lincoln Highway Park Addition, said point being the
intersection of the West right-of-way line of Edsall
Avenue and the South right-of-way line of Jefferds
Avenue; thence West along the South right-of-way line
of Jefferds Avenue and the North line of Lots Numbered
70, 71, 72, 73, 74, 75 and 76 in Lincoln Highway Park
Addition a distance of 278.0 feet to a point on the
East right-of-way line of Fairview Avenue, said point
being the Northwest corner of Lot Numbered 70 in
Lincoln Highway Park Addition; thence South along the
East right-of-way line of Fairview Avenue and the West

#485

line of said Lot 70, a distance 37.2 feet; thence Southwesterly a distance of 103.5 feet to a point on the Northerly right of way line of Washington Boulevard, said point being located on the South line of said Lot #70, 27.7 feet West of the Southeast corner thereof; thence Northwesterly along the Northerly right of way line of Washington Boulevard, a distance of 89.3 feet to a point on the West right of way of Fairview Avenue, said point being 76.0 feet South of the Northeast corner of Lot Numbered 69 in Lincoln Highway Park Addition; thence North a distance of 126.0 feet to the Southeast corner of Lot Numbered 132 in Lincoln Highway Park Addition; thence East along the North right of way line of Jefferds Avenue and along the South line of Lot Numbered 114 and 131 in Lincoln Highway Park Addition a distance of 328.0 feet to a point on the West right of way line of Edsall Avenue, said point being the Southeast corner of Lot Numbered 114 in Lincoln Highway Park Addition; thence South a distance of 50.0 feet to the point of beginning, containing 0.506 acres.

and which vacating amends the Thoroughfare Plan of the City Comprehensive ("Master") Plan and is hereby approved in all respects.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage, any and all necessary approval by the Mayor.


COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY:

J. TIMOTHY MCCAULAY, CITY ATTORNEY

** Public hearing to be held on _____,
the _____ day of _____, 1991,
in the Council Chambers.

Sandra E. Kennedy, City Clerk

Read the first time in full and on motion by Henry,
seconded by Quinn, and duly adopted, read the second time by
title and referred to the Committee on Legislation (and the
City Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Common Council Conference Room 128, City-County
Building, Fort Wayne, Indiana, on _____, the _____, day
of _____, 19_____, at _____ o'clock _____ M., E.S.T.

DATED: 9-10-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____,
seconded by _____, and duly adopted, placed on its passage.
PASSED LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____
<u>EDMONDS</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	_____	_____	_____	_____
<u>HENRY</u>	_____	_____	_____	_____
<u>LONG</u>	_____	_____	_____	_____
<u>LUNSEY</u>	_____	_____	_____	_____
<u>RAVINE</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. _____
on the _____ day of _____, 19____

ATTEST:

(SEAL)

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the _____ day of _____, 19____,
at the hour of _____ o'clock _____ M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____,
19____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR

[illegible]

GENERAL FORM NO. 952

RECEIPT

No. 10853

COMMUNITY & ECONOMIC DEVELOPMENT

FT. WAYNE, IND.,—

7.2591

RECEIVED FROM

7-22 1991
 Omega Source \$ 100.00
 one hundred 00/ DOLLARS

THE SUM OF

one hundred 100

DOLLARS

ON ACCOUNT OF

Locata Edelherd Cul

3736

PAID BY: CASH

CHECK

M.O.

AUTHORIZED SIGNATURE

[Handwritten Signature]
AUTHORIZED SIGNATURE

Date Filed: August _____, 1991

Amended
Vacation Petition

OmniSource Corporation
(Applicant's Name or Names)

PETITION TO VACATE:

Jefferds Avenue from the West right-of-way line of Edsall Avenue to the West right-of-way line of Fairview Avenue and that part of Fairview Avenue South of Edsall Avenue as shown on Exhibit A.

TO: THE CITY PLAN COMMISSION
CITY OF FORT WAYNE, INDIANA

The undersigned Petitioner has heretofore filed a Vacation Petition with the City Plan Commission on July 22, 1991 to vacate a portion of Jefferds Avenue and a portion of Fairview Avenue and now files this Amended Petition for the purpose of enlarging that portion of Fairview Avenue which it seeks to have vacated, all as more particularly described on Exhibit "A" attached hereto and hereby made a part hereof.

The undersigned Petition does hereby respectfully petition the Fort Wayne City Plan Commission to vacate the following Street with the City of Fort Wayne, Indiana, and hereby described as follows:

That portion of Jefferds Avenue in the City of Fort Wayne, bounded on the North by real estate owned by the Petitioner, on the East by the West right-of-way line of Edsall Avenue, on the South by real estate owned by the Petitioner and on the West by the West right-of-way line of Fairview Avenue, and also that portion of Fairview Avenue directly south of the south right-of-way line of Jefferds Avenue, as more particularly described on Exhibit "A" attached hereto and hereby made a part hereof.

In support thereof, your Petitioner would represent as follows:

(List Reasons for requesting vacation.)

1. That said Jefferds Avenue and said Fairview Avenue are used solely by Petitioner, its agents, employees, invitees, licensees and guests and there is no need for its use by any other members of the general public.
2. That said Jefferds Avenue and said Fairview Avenue contain no utility easements except for a water utility easement which is in place and which easement is not sought to be vacated. Petitioner has prepared a form of Grant of Easement to assure to the City that the vacation of the street will not jeopardize the right to maintain the water utility, a copy of which is attached hereto.
3. Petitioner knows of no other needs for utility easements on or over said Jefferds Avenue and said Fairview Avenue, but is willing to dedicate such easements as may be needed for it's proposed use of the real estate.

4. That said Jefferds Avenue and said Fairview Avenue are not necessary as ingress or egress to other properties whatsoever.
5. That said Jefferds Avenue and said Fairview Avenue are not at this time and have not been for many years used by anyone but Petitioner.
6. That no person, firm, or corporation is interested in or affected by the requested vacation.
7. That the maintenance of said Jefferds Avenue and said Fairview Avenue are not necessary or advantageous to the growth of the City of Fort Wayne, and it would be in the best interests of the City and the citizens thereof that it be vacated.
8. That the land which is contiguous to said Jefferds Avenue and said Fairview Avenue is owned by Petitioner and is presently used for the maintenance and operation of a scrap yard and for the parking of Petitioner's vehicles and trailers.
9. That the Petitioner knows of no person, firm, or corporation who would be aggrieved by the proposed vacation of said Jefferds Avenue and said Fairview Avenue because it (a) would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous; (b) would not make access to the lands of any aggrieved person, firm, or corporation by means of public way, difficult or inconvenient; (c) would not hinder the public's access to a church, school, or other public building or place; and (d) would not hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous, which are the only grounds on which a remonstrance or objection may be made. (I.C. 36-7-3-13).

Your Petitioner files this petition pursuant to the authority granted in Indiana Code, and provisions of local ordinance, in order to complete the vacation as described.

WHEREFORE, your Petitioner prays that the above described Jefferds Avenue and Fairview Avenue be vacated according to the provisions of the Indiana Law pertaining thereto.

DATED THIS 13th DAY OF AUGUST, 1991.

OMNISOURCE CORPORATION

Adjacent property Owner
1610 North Calhoun Street
Fort Wayne, IN 46808

By: 

Otto M. Bonahoom

As Its: Attorney

NOTICE:

FILING OF THIS APPLICATION GRANTS THE CITY OF FORT WAYNE
PERMISSION TO POST "OFFICIAL NOTICE" ON THE PETITIONED PROPERTY.

FAILURE TO POST, OR TO MAINTAIN POSTING CAN PREVENT THE PUBLIC
HEARING FROM BEING HELD.

This form is to be filed in duplicate.

AGENT:

Otto M. Bonahoom, Esq.
Barrett & McNagny
215 East Berry Street
P.O. Box 2263
Fort Wayne, IN 46801
(219) 423-9551

3456B

oh/lrw

CERTIFICATE OF SURVEY

OFFICE OF:

DONOVAN ENGINEERING

JOHN R. DONOVAN P.E. No. 9173 P.L.S. No. 9921 INDIANA
FRANCIS X. MUELLER P.L.S. No. SO193 INDIANA
GREGORY L. ROBERTS P.L.S. No. SO548 INDIANA
FORT, WAYNE, INDIANA

The undersigned Civil Engineer and Land Surveyor hereby certifies that he has made a resurvey of the real estate shown and described below.

Measurements were made and corners perpetuated as shown hereon, in accordance with the true and established lines of the property described, and in conformity with the records in the office of the County Recorder, ALLEN County, Indiana. No encroachments existed, except as noted below.

The description of the real estate is as follows, to wit: Part of Jefferds Avenue and Fairview Avenue in Lincoln Highway Park Addition as recorded in Plat Book 7B Page 121 as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana, more particularly described as follows:

Beginning at the Northeast corner of Lot Numbered 76 in Lincoln Highway Park Addition, said point being the intersection of the West right-of-way line of Edsall Avenue and the South right-of-way line of Jefferds Avenue; thence West along the South right-of-way line of Jefferds Avenue and the North line of Lots Numbered 70, 71, 72, 73, 74, 75, and 76 in Lincoln Highway Park Addition a distance of 278.0 feet to a point on the East right-of-way line of Fairview Avenue, said point being the Northwest corner of Lot Numbered 70 in Lincoln Highway Park Addition; thence South along the East right-of-way line of Fairview Avenue and the West line of said Lot 70, a distance of 37.2 feet; thence Southeasterly a distance of 103.5 feet to a point on the Northerly right-of-way line of Washington Boulevard, said point being located on the South line of said Lot #70, 27.7 feet West of the Southeast corner thereof; thence Northwesterly along the Northerly right-of-way line of Washington Boulevard, a distance of 89.3 feet to a point on the West right-of-way of Fairview Avenue, said point being 76.0 feet South of the Northeast corner of Lot Numbered 69 in Lincoln Highway Park Addition; thence North a distance of 126.0 feet to the Southeast corner of Lot Numbered 132 in Lincoln Highway Park Addition; thence East along the North right-of-way line of Jefferds Avenue and along the South line of Lots Numbered 114 and 131 in Lincoln Highway Park Addition a distance of 328.0 feet to a point on the West right-of-way line of Edsall Avenue, said point being the Southeast corner of Lot Numbered 114 in Lincoln Highway Park Addition; thence South a distance of 50.0 feet to the point of beginning, containing 0.506 acres.

R/W VACATION
JEFFERDS AVE.
FAIRVIEW AVE.

JOB FOR: OMNISOURCE

8-28-91



RESOLUTION OF VACATION ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on September 10, 1991 referred a proposed right-of-way vacation ordinance to the City Plan Commission which proposed ordinance was designated as Bill No. G-91-09-09; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on September 16, 1991.

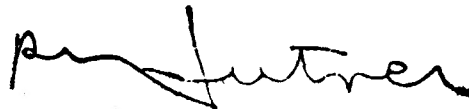
WHEREAS, a letter requesting WITHDRAWAL of the proposed ordinance has been filed with the City Plan Commission.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance be withdrawn in accordance with the written request.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 23, 1991.

Certified and signed this
29th day of March 1993.

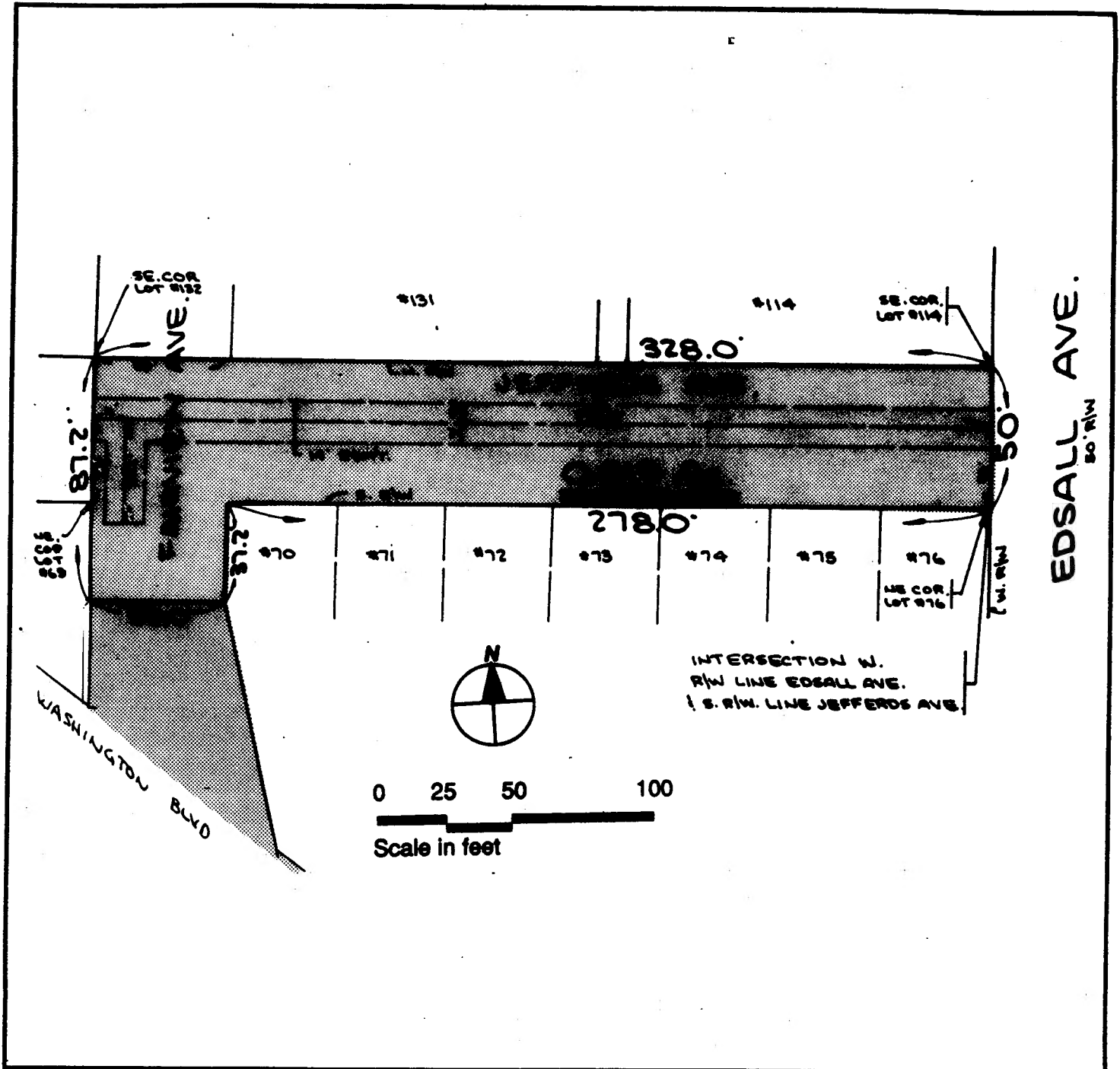
A handwritten signature in dark ink, appearing to read "R. Hutner", is written over a horizontal line.

Robert Hutner
Secretary

VACATION PETITION

AREA MAP

CASE NO. #485



COUNCILMANIC DISTRICT NO. 1

Map No. Q-6
LW 6-25-91

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

FACT SHEET

G-91-09-09

BILL NUMBER

**Division of Community
Development & Planning****BRIEF TITLE**

Street Vacation Ordinance

APPROVAL DEADLINE**REASON****DETAILS****Specific Location and/or Address**

Jefferds Avenue between Edsall Avenue, and Fairview Avenue, and Fairview Avenue between Jefferds and Washington.

Reason for Project

Expansion of OmniSource facility.

Discussion (Including relationship to other Council actions)

16 September 1991- Public Hearing

Otto Bonahoom, attorney for the petitioner, Omni-Source Corporation appeared before the Commission. Mr. Bonahoom stated that to his knowledge there was no controversy regarding the requested vacation. He stated that after meeting with the staff they have worked out a relocation of Jefferds Avenue south of the existing right-of-way to allow continued public use of Fairview Avenue approach. He stated that the relocation will be at the expense of Omni-Source and will comply with applicable city standards and specifications. He stated that they have no problem with any of the required easements. He stated that the vacation is being requested in order to accommodate the proposed expansion of the existing facility.

There was no one else present who spoke in favor of or in opposition to the proposed vacation.

POSITIONS**RECOMMENDATIONS**

Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Omni-Source Corporation City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
Board or Commission Recommendation	By <input type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions) WITHDRAWN
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

23 September 1991 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation contingent upon the petitioner satisfying the following:

- 1) The petitioner must provide utility easements as needed.
- 2) Relocate Jefferds Avenue south of the existing right-of-way to allow continued public use of Fairview Avenue approach. This relocation will be completed at the petitioners expense and must comply with applicable city standards and specifications.
- 3) Provide a revised legal description of the portions of Jefferds Avenue and Fairview Avenue that will be vacated.

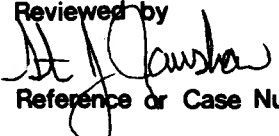
Motion carried.

NOTE: This petition was withdrawn by the petitioner's attorney, Otto Bonahoom. Mr. Bonahoom stated that the conditions had not been met due to economic reasons. Therefore, Omni-Source had instructed him not to resist a do not pass recommendation. He further stated that if it would assist in expediting the matter that we could accept his letter as a formal withdrawal of the petition.

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start	Date	22 July 1991
Projected Completion or Occupancy	Date	29 March 1993
Fact Sheet Prepared by	Date	29 March 1993
Patricia Biancaniello		
Reviewed by	Date	31 MARCH 1993
		
Reference or Case Number		

Barrett & McNagny

ATTORNEYS

215 EAST BERRY STREET • POST OFFICE BOX 2263
FORT WAYNE, INDIANA 46801-2263 • (219) 423-9551
FAX (219) 423-8924

429 JEFFERSON PARK MALL
P.O. BOX 5158
HUNTINGTON, INDIANA 46750
(219) 356-7766
FAX (219) 356-7782

J. MICHAEL O'HARA
OTTO M. BONAHOOM
HOWARD L. CHAPMAN
TED S. MILLER
PAUL S. STEIGMEYER
JOHN M. CLIFTON, JR.
ROBERT S. WALTERS
JOHN F. LYONS
N. THOMAS HORTON II
RICHARD D. ROBINSON
WILLIAM L. SWEET, JR.
PATRICK G. MICHAELS
THOMAS M. FINK
RICHARD E. FOX
GARY J. RICKNER
JOHN D. WALDA
JAMES P. FENTON
JOHN P. MARTIN
ALAN VERPLANCK
DENNIS C. BECKER
THOMAS P. YODER

THOMAS M. KIMBROUGH
RONALD J. EHINGER
STEPHEN L. CHAPMAN
THOMAS A. HERR
ROBERT R. GLENN
THOMAS J. MARKLE
MICHAEL P. O'HARA
JOSEPH G. BONAHOOM
THOMAS M. NIEZER
ANTHONY M. STITES
RENEE R. NEELD
DAVID R. STEINER
KEVIN K. FITZHARRIS
KATHLEEN M. ANDERSON

OF COUNSEL
MENTOR KRAUS
J.A. BRUGGEMAN
JAMES M. BARRETT III
WILLIAM F. MCNAGNY

Writer's Direct Dial
(219) 423-8916

March 25, 1993

Wayne E. O'Brien
Planner II
City of Fort Wayne
One Main Street
Fort Wayne, Indiana 46802

Re: Vacation Petition/OmniSource
G-91-09-09

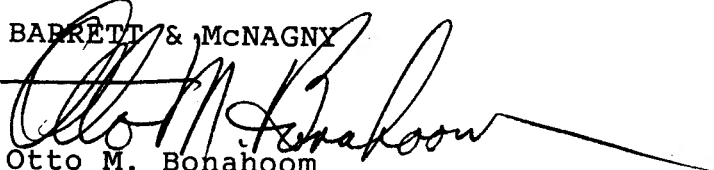
Dear Mr. O'Brien:

In response to your letter to me of March 22, 1993, I have consulted with my client, OmniSource, and have been advised that the conditions of the conditional approval of the vacation petition have not been met for economic reasons. Therefore, the client has instructed me not to resist the do-not-pass recommendation at the business meeting on April 26, 1993.

If it will assist you in expediting this matter, you may take this letter to be a formal withdrawal of my client's petition to vacate Jefferds Avenue.

Very truly yours,

BARRETT & McNAGNY


Otto M. Bonahoom

OMB:kjs:4988B

cc: OmniSource Corporation
Attention: Leonard Rifkin, President
1610 North Calhoun Street
Fort Wayne, Indiana 46808

#485

ORIGINAL

DIGEST SHEET

ORIGINAL

TITLE OF ORDINANCE Street Vacation Ordinance

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE Portions of Jefferds and Fairview Avenue

G-91-09-09

EFFECT OF PASSAGE Property is currently dedicated right-of-way. Property will be vacated and rpvert to the ownership of the adjacent property owners.

EFFECT OF NON-PASSAGE Property will remain dedicated right-of-way.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE (J.N.)) _____

BILL NO. G-91-09-09

REPORT OF THE COMMITTEE ON REGULATIONS

DAVID C. LONG & REBECCA J. RAVINE - CO-CHAIRPERSONS
LUNSEY, SCHMIDT

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the Thoroughfare
Plan of the City Comprehensive ("Master") Plan by vacating
public right-of-way thereof

HAVE, HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

With Brown -

DATED: 4-13-93

Sandra E. Kennedy
City Clerk